ON

THE CONCEPT OF BONDED LABOUR

AND THE METHOD OF

IDENTIFYING BONDED LABOURERS

TRAINING MANUAL

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FOREWORD

Training is a basic input of human resource development. It is an aid to continuous professional development of functionaries engaged in acquisition, transmission and application of various branches of human knowledge. It imparts both information and skills. The information may be related to why, what and how of a particular area of operation (like imparting, functional literacy to non literates, reducing infant mortality rate, banning foeticide and female infanticide, elimination of a host of social evils like bonded labour system and child labour, early child marriage, dowry deaths etc.). The skills could be multi sectoral and multi disciplinary such as –

- life skills;
- communication skills;
- attitudinal and behavioural skills;
- survival skills;
- vocational skills;
- cognitive, affective and psychomotor skills.

Such skills would enable an individual to cope with the ever increasing concerns, stresses, strains and challenges of life with strength, courage and self confidence.

Imparted in a learner – centred mode, training would remove doubts, uncertainties and mindsets and place issues in a proper and holistic perspective besides imparting a rational, secular and scientific temper. It would enable the participants i.e. trainers and trainees alike to think, reflect and critically analyse the causes and consequences of certain events and come to certain conclusions which will be just, fair and equitable.

Bonded Labour System is both a perverse and pernicious system which is anathema to civilized human conscience, negation of inalienable human rights, antithesis of dignity, decency, equality and freedom and negation of all that is just, fair and equitable at the work place. Partly sanctified by caste system and an inegalitarian feudal social order, it has been nurtured and buttressed by man's voluptuous greed, tyranny, acquisitive instincts and the beastly instinct inherent in

every man to dominate over another, exploit him to the core and to thrive/prosper at the latter's cost.

As of now, we can do precious little about caste system. Dr. B.R. Ambedkar had fought his whole life and strove towards its eradication but did not succeed. On the day of adoption of the Constitution in the Constituent Assembly (26.11.49) he had made a prophetic statement which is pregnant with meaning. To quote from that inimitable statement:-

"On 26th January, 1950 we are going to enter into a life of contradictions. In politics we will have equality and inequality in social and economic life. In politics we will be recognizing the principle of one man, one vote, and one vote, one value. Our social and economic structure, however, would continue to deny the principle of one man, one value. How long shall we continue to live the life of such contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which we have so laboriously built up".

The anguish with which this great visionary of Indian history had posed these questions continues to be single most focal point of reflection 57 years later even today.

As of now, while inequality and inequity in distribution of land holdings is pervasive, Land reforms is practically a thing of the past. Either no land is available for distribution or locked up in protracted litigation for years. In districts like Champaran where Bapu had waged his first non violent struggle to protect the interests of indigo planters, the entire agricultural land is in the ownership of a few feudal lords who are also owners of sugar factories and whose interests are well protected by Bihar Sugar Factory Control Act. If law connives with vested interests bonded labour system will be the inevitable consequence. Whether it is bonded labour system in mines, stone quarries and crushers, brick kilns and tanneries, local administration would always connive with quarry owners and contractors and workers who form organizations to agitate for their rights would always face dire consequences. Legal procedures are too complicated and people like the activists of Jeevika in Karnataka working at the grass root level would find it virtually impossible to release the victims from

bondage. There is thus precious little that we can do to bring about a qualitative, far less a radical change, in the inequitable, oppressive and inegalitarian socio-economic system, howsoever valiantly we may decry the same.

What could, therefore, be the objectives of training in such a dismal and disquieting scenario?

Such a training still has relevance for both the victims of the inequitous and oppressive system and for the local administration entrusted with the responsibility to eradicate the evil.

It could be an effective tool of **conscientization of the bonded labourers** at the first instance by arousing and awakening in them a critical consciousness in the following manner:-

- Who am I?
- From where have I come?
- Why have I landed myself in such a despicable situation?
- When I was drafted for this work so many promises were made, so many assurances were given.
- All of them have been belied.
- Instead I have been subjected to a process of ruthless and heartless exploitation.
- Why could I not foresee this consequence?
- Can I wriggle myself out of this plight and predicament?
- What are my strengths and weaknesses?
- Am I aware of them?
- What are the strengths and weaknesses of my adversaries (bonded labour keepers)?
- Am I aware of them?
- How do I succeed in breaking the vice like grip of the landlords and money lenders to whom I have been bonded?
- Will awareness of laws alone help?
- Will organization of the unorganized help?
- Can organization of the unorganized bring for me necessary social countervailing power which I do not have?

- If such is the immense potential of organizations of the unorganized let me join new organizations, new lobbies and new forces which would intervene and intercede on my behalf for my release, for my freedom, for my security, for my rehabilitatioin and for my total well being.

While these could be important objectives of a conscientization oriented training for the victims of the bonded labour system, there are a few important objectives of **training for the local administration (DM, SDM, Executive Magistrate, Tahsildar, BDO etc.)** as well:-

In terms of information sharing and empowerment:

- conceptual and definitional clarity, removal of mindsets;
- constitutional and legal provisions;
- judgements of the apex Court on various aspects of bonded labour system, i.e., identification, release and rehabilitation;
- sharing of success stories or successful experiments to instil confidence in the minds of planners that elimination of the social scourge is not utopian, but feasible and achievable;
- new forms of bonded labour system like trafficking for forced labour;
- new approaches to rehabilitation – sharing of valuable experiences.

Training can also be an important tool for their conscientization only if they keep on asking the following questions to themselves:-

- What is our mandate?
- Are we aware of the implications of this mandate in the context of examination of bonded labour system?
- Do we have the wherewithal for discharge of this mandate?
- What are the problems, constraints and challenges inhibiting the process of discharge of our mandate?
- When we proceed to discharge our mandate, do we do it in a routinized and stereotyped manner or in an unconventional and unorthodox manner with a sense of pride and distinction?

- When a law or ruling is capable of being interpreted differently do we interpret it in a manner which will be beneficial for those for whom the law or ruling has been enacted and is intended? If not, why not?
- Bonded labourers constitute the poorest of the poor and the weakest of the weak. They do not know that they do not know. On account of years of serfdom and servitude, they are unaware of their rights and entitlements, nor are they capable of exercising their option and discretion in an appropriate manner. They do not have the professional skill that would enable them to pursue an independent livelihood. Even when installed in a profitable activity, they will have no income during the period of gestation. They may not even like to undergo the strenuous process of economic rehabilitation and may even prefer lapse back to the old world of bondage and economic security, howsoever, illusory.

Are we sufficiently aware of this tragic reality on the ground? If not, should we be a little more mobile, should we be a little more informal and friendly in meeting and interacting with these unfortunate sections of our society, ascertaining their genuine grievances and trying our utmost in redressing them?

It is in this holistic perspective that training needs of both potential bonded labourers, actual bonded labourers and released bonded labourers on way to rehabilitation as also training needs of functionaries of local administration and law enforcement machinery should be perceived and internalized. The needs being different, curriculum, course content and materials for training will be different. They also need to be designed differently through workshops of creative thinkers, writers and artistes. The first end product of the workshop needs to be pretested, the reaction of the audience or users elicited and tape recorded, brought back to the workshop before being finally validated for adoption and implementation.

It is appropriate that Jeevika, a grass root level activist organization being active on the ground for more than 20 years in the field of elimination of bonded labour system has undertaken on its shoulders this very timely and appropriate initiative.

During its long sojourn and the relentless battle against tyranny, injustice, oppression and inequality waged by it, it has

weathered many vicissitudes, many trials and tribulations; it has fallen and bled but not given up. The grit, courage and determination of the NGO have been instrumental in tracking bonded labourers, in securing release of large number of bonded labourers and in pursuing with the State Government of Karnataka the need for securing an effective and permanent rehabilitation for them.

The Manual on Training for elimination of bonded labour system would undoubtedly spur many other grass root level activist organizations to action and to make use of the manual in training and retraining of functionaries of administration at various levels as also released bonded labourers. It will be appropriate that the suitability of the framework for training designed by Jeevika is evaluated after sometime by a professional expert or institution and measures taken for further improvement of the content. I wish the spirited endeavour of Jeevika all success.

Dr. L. Mishra, IAS (retd.)
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25.1.2008

Introduction

Everyone who is involved with the issue of bonded labour in India knows that *The Bonded Labour System Abolition Act, 1976* is one of the succinct, clear and most powerful acts in the country tackling a social evil. Whatever ambiguities that are there in the Act as it was passed in 1976 and amended in 1985 have been amply clarified by a few landmark Judgments by the Supreme Court over a period of time but especially in the 1980s. Together with them, some well thought out guidelines, especially for the identification and rehabilitation of bonded labour, both at the central level and in some states, have been issued by a few well meaning administrators deeply concerned with the plight of bonded labourers. In spite of all this, it is utterly shocking that any activist taking up the cause of bonded labour in any state in the country usually encounters from the law enforcers as well as the law interpreters, duty bound to uphold the values enshrined in the Constitution and carry out the statutes passed to implement its provisions, an attitude betraying a callous ignorance of the simple explanations given in the Act on Bonded Labour and the easy to grasp guidelines passed on to them now and then, and also a wilful denial to take up any action that will mitigate the harsh situation of bonded labour and give her/him justice. What is the reason for this? Is it only a question of lack of knowledge or is it a question of the entrenched class and caste positions, unconsciously nurtured, that prevent one to know what is there in the Bonded Labour Act or, if read, to misinterpret it? Lack of knowledge can easily be remedied by providing the necessary information in easily accessible ways. But an attitudinal change can only happen through a well-designed and well-carried out training programme. Hence the importance of working out a training module on bonded labour and carrying out trainings before undertaking any process of identification and rehabilitation of bonded labourers.

Lack of knowledge of all the provisions on bonded labour and lack of determination to fight against the evil are also witnessed among

the bonded labourers themselves and the vulnerable sections of the society prone to bonded labour, especially the dalits and the adivasis, given their rampant illiteracy still and the subservient and anti-human values imbibed by them through the all pervasive caste system. Worse still, the movements and organisations, professing to fight for the rights of the vulnerable, by and large, show total ignorance of the scope contained in the Bonded Labour Act for the emancipation of bonded labourers.

JEEVIKA, a short form for *Jeeta Vimukti Karnataka*, i.e., Bonded Labour Liberation (Front) Karnataka, and which has the ascribed meaning of *Bandhana Mukta Jeevana*, i.e., Bondage Free Life, in its task of eradicating bonded labour, first in one taluk since 1988 and then in different corners of the state since 1993, gave great importance to making widely known and giving training on the provisions of the Constitution and the Statute on bonded labour and the interpretations furnished by the Supreme Court as also some of the very pertinent guidelines, like that on identifying bonded labour issued in the 1980s by a district magistrate in Andhra Pradesh, Sri S.R. Sankaran. It is not just a question of acquiring knowledge; what is paramount is imbibing the foundational values of freedom, justice, equality and fraternity, enshrined in the Constitution. For that purpose, what is needed is not just reading through the material but being confronted in an intense, interactive and participatory process, whether one calls it training or something else.

In its long period of over 20 years of involvement with bonded labour in Karnataka, JEEVIKA faced great non-cooperation from the government, though its very first effort at lobbying in 1990 yielded the desired effect of making the Minister concerned to direct the authorities to take action in Anekal taluk according to Law, (which resulted in 1992 in the sanctioning of 12 lakh rupees for the rehabilitation of 192 bonded labourers, out of the 697 who had filed affidavits for their release and rehabilitation with the deputy commissioner,) and had made the authorities since 1992 to take up action under the Act all over the

state, but yielding no result. The publication in all the Newspapers in Karnataka on 22 June 2000 of five chained bonded labourers in a quarry, known as the Hangarahally episode, changed all that. The JEEVIKA activists were sought out by the administration to give trainings to their various officials on the concept of bonded labour and the methodology of identifying it. The deputy commissioner in Kolar, Sri Syed Jameer Pasha, requested Jeevika activists in July 2000 to carry out intense short duration 'trainings' of just two to three hours in all its then eleven taluks within a matter of four days to all the officials of the Revenue and Rural Development and Panchayat Raj Departments. Then Sri L. Athiq, the deputy commissioner of Mandya, where the Hangarahally episode took place, invited me to work out a module of training for his officials and carry it out in all his seven taluks. The outcome was the first precursor of the present manual on training. It tried to combine interactive, participatory, motivational and self-discovery principles, though not in an in-depth manner, given the need to be of short duration of four to six hours and also to cater to a large number of participants, sometimes 150 to 200 in a batch. Yet, the impact on the participants was quite palpable and clear and seemed to achieve the purpose. Afterwards the training was replicated in a number of other districts and taluks all over the state at the invitation of the deputy commissioners and tahsildars.

The names of five officials, Sri S.R. Sankaran, Sri Syed Jameer Pasha, Sri L. K.Athiq, Sri K.R.Venugopal and Dr. L. Mishra, who has graced this manual by writing an encouraging and enlightening foreword to it, are cited here to show what a bureaucrat can do on behalf of bonded labourers if s/he has the right sensitivities and concern.

Sri. S.R. Sankaran, on his own, wrote the path-breaking guidelines on the identification of bonded labourers in Andhra Pradesh, as part of his mandate to take action under the Act on Bonded Labour. They were so valid in the context of the reality of dalits and adivasis, that they are still relevant even outside Andhra Pradesh, and the Karnataka Government has passed them round in 1999 to all its officials for necessary compliance.

It is worth narrating the stand taken by Sri L. K. Athiq in the face of some unique cases of bonded labour in his district to show what a well meaning bureaucrat could do in a seemingly ambiguous situation if s/he were to have the right perceptions and orientations on bonded labour. The case seemed to have a lot of ambiguities preventing one take a clear decision that it was bonded labour. The facts were: some daily wage labourers were 'bound' to work for the same master but for daily wages. Their daily wages in 2000 were Rs. 20 per person as against other daily wages of Rs. 40 per person for labourers working for the same master. The reason for the difference was that those who received Rs. 20 per day had borrowed some advances from the master. As daily wagers, they were to work from morning till evening for about eight hours a day. It seemed to be that they were not bonded labourers because they were working only for a limited number of hours unlike the other bonded labourers who were to be at the beck and call of the master whether during the day or at night. Sri Athiq took a clear and unhesitant stand in a meeting of the Vigilance Committee of the district that that was a clear case of bonded labour according to the Act.

The example of Sri Syed Jameer Pasha is also worth noting because, even before a clear directive by the higher ups was received by him, he realised the importance of sensitising his officials through proper trainings on the provisions in law regarding the concept of bonded labour and the right methodology to identify it, if at all they were to do justice to their mandate and bring relief to the unfortunate bonded labourers. (However, it is another matter that, though the first investigations after the training had identified nearly 1900 bonded labourers, which actually is not a big number at all for a large district of 11 taluks and which is drought prone and very backward, it was brought down to 370 through a process of secondary investigation by officials who had not gone through any training on bonded labour).

The role of Sri K.R. Venugopal, who retired as the Secratery to the Prime Minister, in eradication of bonded labour also requires to be commended. The many years he spent as the Special Rapporteur on

bonded labour in the NHRC, ever since the Supreme Court assigned to the NHRC in 1996 the responsibility of monitoring the Act on bonded labour in the country till 2006, he has been working towards putting in place sound institutional mechanisms in NHRC as also the southern States including Karnataka. this is evedent in the Report of the Expert Group to the NHRC in 2001 and the Recomendations by the Governament of Karnataka and the NHRC as a result of the Two -Day work shop on bonded labour in Bangalore in 2003.

Dr. L. Mishra's role in implementing *The Bonded Labour System (Abolition) Act, 1976* is very exemplary. He had pursued the cause of bonded labour, during the long years he spent in the Ministry of Labour, Government of India, by drafting and issuing suitable guidelines, schemes and programmes for the identification, release and rehabilitation of bonded labourers and also by following them up with circulars, directives and field visits. From all these examples it is very clear that there is no limit to what a committed bureaucrat can do for the benefit of bonded labourers and for eradicating bonded labour system from the society.

The module worked out in 2000 has been expanded somewhat and presented here. Since the concern is to reach a large number of people in a short duration of time and also to personalise the learning process, a few interactive and participative techniques have been suggested like small group discussion, elicitation, reading, role play and so on, within the limits of a short duration course. The whole format of the training is given in a tabular form. The training contains a number of sessions and for each of the sessions, the required reading material for use by the trainer and the participants has also been furnished as handout sheets after the format. The module has in all 14 sessions of ten to 45 minutes duration, with the entire module taking six hours. Some sessions can be extended or eliminated, depending on the circumstances.

The training material is designed mainly for those concerned with identifying bonded labourers, be they officials or non-official activists. Bonded labourers require a different type of training module or the present one adapted according to their needs and circumstances. Regarding those concerned with taking action on behalf of bonded labourers, the intended result is imbibing a clear and correct knowledge in a brief period as also inculcating the right attitudes towards the question of eradication of bonded labour. Dr. Mishra has very well brought out in the Foreword the expected out come of the trining with regard to the officials.

The first version of this trining module was extensively made use of by the JEEVIKA activists to the governament officials all over Karnataka in 2000 and 2001. The present version may prove very helpful to all the members of NABoL - National Alliance on Bonded Labour, which came into existence in July 2007 and other activists, as also those of JEEVIKA involved with bonded labour.

I thank Dr. Mishra for writing a very inspirational foreword and HIVOS, Bangalore for the financial support to print the Manual. My deep gratitude to Dr. T S Vivekananda for designing the cover and the Manual and getting it printed; and also to T. Jajajaakshi and M. Manjula for the data entry.

26 January 2008

kiran kamal prasad
Co-ordinator
JEEVIKA
NABoL

Training Manual On

the Concept and Method of Identifying Bonded Labour

Session	Activity	Objectives	Content	Time
I	Sharing*		Purpose & methodology of the training Brief interaction on expectations of participants Brief Self Introduction	15 mts.
II	Elicitation & Discussion	Ascertaining one's perception of BL as a basis for assimilating correct understanding of BL	Each one answers in writing: Who is a bonded labourer? What is bonded labour system? Discussion in groups of 5 on the writings Reading out a few samples of writings Summing up the responses of the participants & Clarification on what constitutes bonded labour	30 mts.
III	Singing*	Making an emotional impact on the reality of BL	Awareness Songs on Bonded Labour	15 mts.
IV	Reading & Discussion	Understanding the main bases for abolition of BL and the gravity of the task	Constitution of India: The Preamble; Part III: Fundamental rights: Articles 17, 23, 24; also Part IV: Directive Principles of State Policy: Articles 38,39,41-43 & 47	30 mts.

Session	Activity	Objectives	Content	Time
V	Input, Reading &Discussion	Understanding the circumstances of enactment of the Act and the ways & results of implementing it revealing the requirement of great sensitivity to the issue and political will.	Enactment of Bonded Labour System (Abolition) Act, 1976 ; Implementation of the Act in India & Any State where the training is held : Statistics, Analysis	30 mts
VI	Reading &Discussion	Understanding the broad and main features in the Act and appreciating the strengths of the Act which reveal the importance shown by the Parliament in abolishing BL and also the great possibilities available to the well meaning officials and others in getting justice to one of the	BLSA Act : An Overview: Preliminary: Statement of Objects and Reasons Ch.I Title & Definitions : Ss. 1, 2 and S. 3 Provisions in other Acts contrary to this Act are not applicable. Ch.II Abolition of BLS : Ss. 4-5 Ch.III Non-repayment of Bonded Debt: Ss. 6-9. S. 8 Non-eviction from homesteadland Ch.IV Implementing Authorities : Ss. 10-12 Ch.V Vigilance Committees : Ss. 13-14 and S. 15 Burden of Proof on the master	30 mts.

Session	Activity	Objectives	Content	Time
		most vulnerable sections in Indian society	Ch.VI Offences & Punishments :Ss. 16-20; S9 S. 21: Trial by Executive Magistrates- Summary trial. S. 22 : Cognizable & Bailable S. 23 : BL in Companies VII Miscellaneous : Ss. 24-27. S. 25 : Civil Courts barred	
VII	Input, Reading & Discussion	Understanding the most crucial issue in the Act – the definitions on BL	Self reading of the some of the important definitions in the Act	30 mts
VIII	Reading & Discussion	Taking into account all the wrong read ings and prejudices on BL and setting them right in the light of the Act, Case Law and other official pronouncements	Explanations of the definitions with Case Law & A.K. Chakravorty Committee's Recommendations; Misunderstandings of the definitions.	45 mts.
IX	Singing*	Emotionally Strengthening insights gained on the reality of BL	Awareness songs on bonded labour	15 mts.

Session	Activity	Objectives	Content	Time
X	Role Play*	Appreciating the shortfalls in faulty identifications and realise the steps in proper identifications	Making graphic presentations through role plays of the prevalent mode of identification by the officials and also the proper way expected.	20 mts.
XI	Reading	Understanding the basic requirements for a correct identification	Self reading of S.R. Sankaran's Guidelines on identification of bonded labourers	30 mts.
XII	Input Reading, &Discussion	Personalising the require-ments for a correct approach to identification of BL	Explanations on the Guidelines Requirements for an official identification Identification and release of Bonded Labourers. (from the Karnataka Action Plan on Identification Release and Rehabilitation of Bonded Labourers and Prosecution of Offenders.)	30 mts.
XIII	Reading & Discussion	Understanding the official requirements	Action Plan in Brief (Karnataka Action Plan); Summary of A.K.Chakravorty Committee Recomendations; Circular by GOK on Chakravorty Committee Recommendations.	30 mts.
X IV	Singing*	Motivating to act according to the provisions of the Act and on behalf of BL	Awareness songs on bonded labour	10 mts.

*Optional

Handout for Session IV

The Constitution of India
Salient Features in the Preamble, PartIII (Fundamental Rights) and Part IV Directive Principles

1. Preamble of the Constitution:
   Justice: social, economic and political
   Liberty: of thought, expression, belief, faith and worship.
   Equality: of status and of opportunity
   Fraternity: assuring the dignity of the individual and the unity of the Nation.

2. Fundamental Rights (Part III of the Constitution):
   - Right to equality (Arts. 14-18)
   - Right to individual freedoms (Arts.19-22)
   - Right against exploitation (Arts 23-24)
   - Right to freedom of religion (Arts 25-38)
   - Cultural and Educational Rights (Arts 29-30)
   - Right to constitutional remedies (Arts 32-35)

3. Under Right to Equality and Right against Exploitation there are three Rights that are prohibitive in nature. They are as follows:

   - Right against the practice of untouchability.
   - Right against traffic in human beings, forced labour and free labour (*begar*).
   - Right (of children below 14 years) against employment in any factory or mine or in any other work of hazardous nature.

4. Directive Principles of State Policy (Part IV of the Constitution):

Art 38: State to secure a social order with justice, social, economic and political; to minimise inequalities in income and to eliminate inequalities in status, facilities and opportunities

Art 39: State to secure to all citizens adequate means of livelihood; equal wages for equal work for both men and women; to see that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and that children are protected against exploitation.

Art 41: State to secure right to work and public assistance in cases of unemployment, old age, sickness and disablement.

Art 42: State to secure just and humane conditions of work and maternity relief.

Art 43: State to secure to all workers work, living wage, conditions of work ensuring decent standard of life and full employment, of leisure and social and cultural opportunities.

Art 47: State to raise level of nutrition of people and standard of living and improvement of public health.

Handout for Session V

Implementation of the Bonded Labour System (Abolition) Act, 1976:

1) Drawing power from Art.23 of the Constitution, the Bonded Labour System (Abolition) Ordinance was promulgated on October 25, 1975. It took 25 years since the adoption of the Indian Constitution for legislation on the Bonded Labour System to actually materialise. And it is noteworthy that this came about during Emergency that prevailed at that point of time.

2) The Ordinance of 1975 was passed into an Act on February 9, 1976.

3) The Congress Government had included bonded labour eradication into its 20-point programme first in 1975-77 and then again in 1982-84.

4) The implementation of the Act in the initial years: After the Act came into effect all over the country, many interesting aspects relating to the identification and rehabilitation of bonded labourers in different States can be recognised, as explained below. The all India figures and figures pertaining to Karnataka are given in separate tables.

1. In the whole of India, Karnataka, identified the highest number of bonded labourers till 1997. Some States did not take up any action under the Act.
2. The identified bonded labourers have not been rehabilitated immediately; but over a long period of time, leading to relapse of many released ones into further bondage.
3. In Karnataka, the rehabilitation of the bonded labourers, identified in 1978-80 has gone on till the year 2000, and a large number is declared untraceable for rehabilitation even now.
4. The statistics furnished by the government relating to the identified bonded labourers changed every year.

5. Identification of bonded labourers has not been undertaken in the same fashion in all the States. Even within a State, the identification has not been uniform in all the districts. For instance, in Karnataka, the identification was not done in every district. The backward region of North Karnataka comprising the then 8 districts was, surprisingly, reported to have less than 1,500 bonded labourers. And in the developed southern region of the State, consisting of the then 12 districts, more than 60,000 bonded labourers were identified. In the then Dharwad district, comprising the present districts of Dharwad, Gadag and Haveri, not a single case of bonded labour was reported.
6. After 1980 and especially after 1984, there was no major identification of bonded labourers in Karnataka and most of the States.
7. However, after 1980, Karnataka and other 12 States, have categorically made statements and filed affidavits before the Supreme Court claiming to have eradicated, either totally or to a great extent, the bonded labour system.

In the initial years especially till 1980 and to some extent till 1984, **action was taken only in 12 states.** Those states in the decreasing order of the number of bonded labourers identified, released (the first figure within brackets) and rehabilitated (the second figure) are: **Karnataka** (62,708: 54,078), **Orissa** (49,971 : 46,483), **Tamil Nadu** (38,886 : 38,813), **Andhra Pradesh** (36,289 : 25,753), **Uttar Pradesh,** including **Uttaranchal**, (27,489 : 27,469), **Bihar**, including **Jharkhand**, (12,986 : 11,479), **Madhya Pradesh**, including **Chattisgarh**, (12,804 : 11,814), **Rajasthan** (7,478 : 5,804), **Maharashtra** (1,382 : 1,300), **Kerala** (833: 113), **Haryana** (544 : 21) and **Gujarat** (64 : 64).

After this initial spurt of activities on bonded labour, there was a lull in almost all the states. **Only five states**, out of the twelve, continued to take some action under the Act. By 2003, **Tamil Nadu** identified and released another 28,687 bonded labourers and rehabilitated all of them together with the 78 that were identified in the previous

period. **Karnataka** identified and released another 875 and rehabilitated them together with the 1,153 from the previous period. **Uttar Pradesh**, including **Uttarakhand**, identified and released 328 and rehabilitated them together with the 20 of the previous period. **Madhya Pradesh**, including **Chattisgarh**, identified and released 124 and rehabilitated them together with the 83 from the previous period. **Maharashtra** identified, released and rehabilitated 19 bonded labourers.

Between 1993 and 2003, **two more states** have freshly taken action on bonded labour. **Arunachal Pradesh** identified and released 3,526 bonded labourers out of whom 2,992 were rehabilitated. In **Punjab**, 69 bonded labourers were identified, released and rehabilitated.

From the late 80s, it was only the non governmental organisations (**NGOs),** though very few, that have played an active role in a few states like Chattisgarh, Haryana, Karnataka, Punjab, T.N. and U.P. Even in those states, action has been restricted to a few districts only. But the enormous number of bonded labourers identified, released and rehabilitated by those agencies does not find a place in the statistics released by the government.

The number of bonded labourers identified, released and rehabilitated as on 31.3.1993. (Ministry of Labour, Government of India, New Delhi)

No. of bonded labourers as on 31.3.1993					
Sl. No.	Name of theDistrict	Identified & released	Rehabilitated	Not available for rehabilitation.	Balance BLs
1.	Andhra Pradesh	35934	25753	---	10181
2.	Bihar	12986	11479	1116	391
3.	Karnataka	62708	54078	6180	2450
4.	Madhya Pradesh	12804	11814	936	54
5.	Orissa	49971	46769	3176	26
6.	Rajasthan	7478	5804	1533	141
7.	Tamil Nadu	38886	38813	6	67
8.	Maharashtra	1382	1300	82	-
9.	Uttar Pradesh	27489	27469	20	-
10.	Kerala	823	710	113	-
11.	Haryana	544	21	523	-
12.	Gujarat	64	64	-	-
	TOTAL	**2,51,069**	**2,24,074**	**13,685**	**13,310**

Handout for Session-V

Number of bonded labourers (Statewise) as on 31.3.1993.

The following two tables supplied by the Rural Development and Panchayat Raj, Government of Karnataka, Bangalore show the number of bonded labourers identified, released and rehabilitated (district wise) as on two different dates, one in 1998 and the other in 2001.

31-03-1998

Sl. No.	Name of the District	Identified & released	Rehabilitated	Not available for rehabilitation.	Balance BLs
1.	Bangalore Rural	6132	4788	1263	81
2.	Bangalore Urban	2787	2590	197	-
3.	Bellary	602	575	27	-
4.	Bidar	12	12	-	-
5.	Bijapur	451	435	16	-
6.	Chickmagalur	2756	2370	386	-
7.	DakshinaKannada	385	265	120	-
8.	Hassan	4819	4204	615	-
9.	Kodagu	57	50	7	-
10.	Kolar	2937	2617	320	-
11.	Mandya	5217	4998	219	-
12.	Mysore	22644	20710	1934	-
13.	Shimoga	9236	8357	850	21
14.	Tumkur	2046	1730	316	-
15.	Uttara Kannada	8	5	3	-
16.	Chitradurga	1252	1180	72	-
17.	Belgauam	19	10	9	-
18.	Gulbarga	49	47	2	-
19.	Dharwad	-	-	-	-
20.	Raichur	123	103	20	-
	TOTAL	61532	55046	6376	102

Handout for Session-V

Number of bonded labourers -Karnataka(dist.wise) as on 31.3.1998.

No. of bonded labourers as on 1-1-2001

Sl. No.	Name of the District	Identified & released	Rehabilitated	Not available for rehabilitation.	Balance BLs	Rehabilitation Amt. Rs inLacs
1.	Bangalore Rural	6132	5004	1128	-	337.634
2.	Bangalore Urban	2802	2604	198	-	139.325
3.	Bellary	602	575	27	-	22.976
4.	Bidar	12	10	2	-	0.400
5.	Bijapur	591	557	34	-	5.433
6.	Bagalkot	197	53	144	-	1.330
7.	DakshinaKannada	385	265	120	-	10.600
8.	Udupi	-	-	-	-	-
9.	Hassan	4910	4295	615	-	144.350
10.	Chickmagalur	2756	2363	393	-	95.689
11.	Kodagu	57	57	-	-	2.437
12.	Kolar	2957	2637	320	-	110.945
13.	Mandya	5352	5132	220	-	286.060
14.	Mysore	15206	14151	1934	-	782.70
15	Chamarajnagar	7438	6559	-	-	362.395
16	Shimoga	8851	8051	800	-	398.232
17	Tumkur	2046	1768	278	-	70.300
18	Uttara Kannada	8	5	3	-	0.125
19	Chitradurga	1074	1006	68	-	42.945
20	Dhavanagere	178	178	-	-	7.08
21	Belgauam	19	10	9	-	0.400
22	Gulbarga	49	47	2	-	1.190
23	Dharwad	-	-	-	-	-
24	Haveri	-	-	-	-	-
25	Gadag	-	-	-	-	-
26	Raichur	106	88	18	-	4.120
27	Koppal	17	15	2	-	-
	TOTAL	61745	55430	6315		2827.120

Number of bonded labourers (Statewise) as on 1.1.2001.

Handout for Session VI

The Bonded labour System (Abolition) Act: A Bird's Eye View:

Purpose of the Act: "...to provide for the abolition of bonded labour system (BLS) with a view to preventing the economic and physical exploitation of the weaker sections of the people...." (Preamble to the Act)

Chapter I: Title and Definitions (Secs. 1 to 3)

Sec.1: Although The BLS Abolition Act received assent from the President on February 9, 1976, it must be deemed to have come into force from 25 October, 1975, the day of the presidential promulgation of the Ordinance bearing the same title.

The definitions in Sec. 2 will be treated separately in handout VII. The important definitions are those of Advance (a), Agreement, giving different names of forms of forced labour throughout the country (b), Bonded Labour System (g) and Nominal Wages (i).

Sec.3: The Act shall have overriding effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act.

Chapter II and III: Abolition of BLS (Secs. 4-5) and **Extinguishments of Liability to Repay Bonded Debt** (BD) (Secs. 6-9).

Sec.4: The BLS stands abolished throughout the country.

Sec.5: Any custom or tradition or any contract, agreement or other instrument upholding bonded labour shall be void and inoperative after the commencement of this Act.

Sec.6: 1.The unpaid BD shall be deemed extinguished.
2. No suit or other proceeding shall lie in any civil court or any other authority for recovery of BD. (Also see Sec. 25)

3. Every decree or order for the recovery of BD passed before this Act shall be deemed to have been fully satisfied.

4. Any movable and /or immovable property possessed by the creditor in respect of the BD shall stand vacated.

5. Any property belonging to a bonded labourer or a member of his family or other dependent if forcibly taken over by any creditor for the recovery of BD shall be restored to the bonded labourer.

Sec.7: If the creditor has kept any property vested in a bonded labourer under any mortgage, charge, lien etc. in connection with any BD shall be restored to the possession of the bonded labourer.

Sec.8: A freed bonded labourer should not be evicted from homestead, etc. given to him for use by the master.

Sec.9: Any payment against BD cannot be accepted by the creditor.

Chapter IV: Implementing Authorities: (Sec.10 to 12)

Sec. 10: A district magistrate or a subordinate officer specified by him has the powers and duties to take action under this Act.

Sec. 11: "The District Magistrate and the officer specified by him... shall... try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have occasion or reason to contract any further bonded debt."

Sec. 12: It is the duty of every District Magistrate and every officer specified by him to inquire any bonded labour system or any other form of forced labour is being enforced within the local limits of his jurisdiction and if such system is found to exist, he has to take action to eradicate such bonded labour or forced labour.

Chapter V: Structure of Vigilance Committees and their Functions: (Sec.13 to 15)

Sec. 13: Structure of the VCs: At the district level, the DM or a person nominated by him is the Chairman. The DM nominates three persons belonging to the Scheduled Castes or Scheduled Tribes, two social workers and one person to represent the financial and credit institutions in the district. The State Government nominates not more than three persons to represent the official or non-official agencies in the district connected with rural development.

At the sub-divisional level, the Sub-Divisional Magistrate or a person nominated by him is the Chairman. The SDM nominates three persons belonging to the Scheduled Castes or Scheduled Tribes, two social workers and one person to represent the financial and credit institutions in the sub-division. The DM nominates not more than three persons to represent the official or non-official agencies in the sub-division connected with rural development. One official specified under Section 10 and functioning in the sub-division is also a member of the VC of sub-division.

Section 14: Functions of Vigilance Committees are:-

(a) to advise the DM/SDM or any officer authorised by him regarding theactions taken to implement the provisions of this Act or any rule under it;

(b) to provide for the economic and social rehabilitation of the freed bonded labourers;

(c) to co-ordinate the functions of rural bank and co-perative societies with a view to canalising adequate credit to the freed bonded labourer;

(d) to keep an eye on the number of offences of which cognizance has been taken under this Act;

(e) to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act;

(f) to defend any suit instituted against a freed bonded labourer or a member of his family or any other person dependent on him for the recovery of the whole or part of any bonded debt or any other debt which is claimed by such person to be bonded debt .

A Vigilance Committee may authorise one of its members to defend a suit against a freed bonded labourer and the member so authorised shall be deemed, for the purpose of such suit, to be the authorised agent of the freed bonded labourer.

Sec.15: Burden of Proof: Whenever any debt is claimed by a bonded labourer or a Vigilance Committee to be a BD, the burden of proof that such debt is not a BD shall lie on the creditor.

Chapter VI:

Offences and Procedure for Trial (Secs. 16-23 and Sec 9 of ch IIII):

Sec. 16: Whoever compels any person to render any bonded labour shall punishable with three years imprisonment and a fine of Rs.2000.

Sec.17: Whoever advances any BD shall be punishable with three years imprisonment and fine of Rs.2000.

Sec.18: Whoever enforces any custom, tradition, contract, agreement, or other instrument amounting to extraction of bonded

labour shall be punishable with imprisonment of three years and fine of Rs.2000.

Sec. 19: If any property belonging to a bonded labourer is not restored to his possession, such a person shall be punishable with imprisonment for one year and fine of Rs.1000.

Sec. 9: A Creditor accepting any payment against BD shall be punishable with imprisonment upto three years and also with fine. The fine has to be deposited in a bank by the creditor and refunded to the bonded labourer.

Sec.20: Whoever abets (facilitates, encourages) any offence punishable under this Act shall be punishable with the same punishment as provided for the offence abetted.(Abetment in this Act is given the same meaning as in Sec.45 of IPS, 1860).

Sec.21: The State Government may confer on an executive magistrate the powers of a Judicial Magistrate of the First Class or of the Second Class to try the offences under this Act.

Sec.22: Every offence under this Act shall be cognizable and bailable.

Sec.23: Under this Act, if a company commits any offence, the responsible person of that company as well as the company shall be deemed guilty.

<u>Chapter VII:</u> Miscellaneous (Secs. 24 to 27):

Sec.24: No prosecution is possible of any official, any member of the Vigilance Committee or State Government for actions taken in good faith under the act.

Sec. 25: The jurisdiction of a civil court in respect of any matter under this Act shall be barred.

Sec. 26: Power to make Rules under the Act.

Sec. 27: Repeal of the Ordinance on bonded labour. But any action taken under the Ordinance is deemed to have been taken under the Act.

Handout for Session VII

Some Important Definitions on Bonded Labour from the Bonded Labour System (Abolition) Act, 1976

"Bonded Labour System" means the system of forced, or partly forced, labour under which a debtor enters, or has, or is presumed to have, entered, into an agreement with the creditor to the effect that-

i) in consideration of an advance obtained by him or by any of his lineal ascendants or descendants (whether or not such advance is evidenced by the document) and in consideration of the interest, if any, due on such advance, or

ii) in pursuance of any customary or social obligation, or

iii) in pursuance of any obligation devolving on him by succession, or

iv) for any economic consideration received by him or by any of his lineal descendants, or

v) by reason of his birth in any particular caste or community,

he would-

1. render, by himself or through any member of his family, or any person dependent on him, labour or service, to the creditor, or for the benefit of the creditor, for a specified period or for an unspecified period, either without wages or for nominal wages, or
2. forfeit the freedom of employment or other means of livelihood for a specified period or for an unspecified period, or
3. forfeit the right to move freely throughout the territory of India, or
4. forfeit the right to appropriate or sell at market value any of his property or product of his labour or the labour of a member of his family or any person dependent on him,

and includes the system of forced labour, or partly forced labour, labour under which a surety for a debtor enters, or has, or is presumed to have, entered into an agreement with the creditor to the effect that in the event of the failure of the debtor to repay the debt, he would render the bonded labour on behalf of the debtor;

[**Explanation** – For the removal of doubts, it is hereby declared (through an amendment in 1985), that any system of forced, or partly forced labour under which any workman being contract labour as defined in clause (b) of sub-section (1) of Section 2 of the Contract

Labour (Regulation and Abolition) Act, 1970 (73 of 1970), or an inter-State migrant workmen as defined in clause (e) of Sub-section (1) of Section 2 of the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979 (30 of 1979), is required to render labour or service in circumstances of the nature mentioned in sub-clause (1) of this clause or is subjected to all of the disabilities referred to in sub-clauses (2) to (4), is 'bonded labour system', within the meaning of this clause.]"

[The definition means, **in simple terms**,that if a person for any of the five reasons (like 1. having taken an advance or a loan or 2. having received some other economic consideration or 3. hereditary obligation or 4. social custom or 5. being born in a particular community) forfeits any of the four types of freedoms (relating to a. wages, b. seeking fresh employment, c. movement and d. obtaining market value for one's property or the product of one's labour), then he is a victim of bonded labour system.

In still simpler terms, bonded labour system means the situation of loss of freedom to sell one's labour because one has taken a loan or because of any one of the four reasons mentioned above.]

Advance could be in cash or in kind and could be partly in cash or partly in kind (S. 2a).

Agreement between debtor and creditor could be written or oral. The agreement is presumed under any social custom prevailing in a locality. The existence of agreement is ordinarily presumed under the following forms of forced labour: Adiyamar, Baramasia, Basahya, Bethu, Bhagela, Cherumar, Garru-Galu, Hali, Hari, Harwari, Holya, Jana, Jeetha, Kamiya, Khundit-Mundit, Kuthia, Lakhari, Munjhi, Mat, Munish system, Nit-Majoor, Paleru, Padiyal, Pannayilal, Sagri, Sanji, Sanjawat, Sewak, Sewakia, Seri, Vetti (S. 2 b).Bonded Debt **is an advance obtained or presumed to have been obtained under the BLS (S. 2d).**

Bonded Labour means any labour or service rendered under the BLS (S. 2e).

Bonded Labourer means a labourer who incurs or is presumed to have incurred a bonded debt (S. 2 f).

Nominal Wage means a wage below the minimum wages fixed by the Government or where no minimum wage is fixed, the wages that are normally paid for the same or similar labour in the locality (S. 2 i).

Handout for Session VII

Important Definitions on Bonded Labour in the Act

Handout for Session VIII

Explanations on the Important Elements of Bonded Labour System

Bonded Labour System (BLS) can be clearly explained by putting together the definitions in the BLS Abolition Act, the Judgments of the Supreme Court and the Recommendations of A.K.Chakravorty Central Committee Report. The important features of BLS are summarised as follows:

1. **BLS is a system of forced labour** (BLS Abolition Act, Sec.2g). Forced labour here does not mean only physical compulsion or compulsion resorted to under Law (fine, confinement). It includes compulsion out of economic circumstances by which one is made to render labour for nominal wages or no wages. (People's Union for Democratic Rights v. Union of India 1982, para 15)

2. **Generally, a bonded labourer receives some advance** (The BLSA Act, Sec.2g)
   - **The advance may be in the form of cash or kind or partly in cash or partly in kind.** (The Act, Sec.2a)
   - **Advance could be just the principal amount or also the interest on it** (The Act, Sec.2g). Therefore it is incorrect to say that only labour rendered towards only the payment of interest is bonded labour and that labour rendered towards payment of the principal amount is not bonded labour.
   - There **may or may not be documentary proof for the receipt of advance** (The Act, Sec.2g)
   - According to Sec.15 of the Act, if a BL or a member of the Vigilance Committee claims any debt to be bonded debt, the **burden of proof** to show that such a debt is not a bonded debt shall lie on the creditor. That means a BL is not required to produce any written evidence and is also not expected to prove his claim.
   - If there is an element of forced labour, regardless of whether any advance has been received or not, such a labourer should still be considered as a bonded labourer. The provision in the Act of 1976 of the requirement of advance to be paid by the

creditor to the bonded labourer to constitute an offence should not be narrowly read (Bandhua Mukti Morcha v Union of India, 1984, Para 14 ; Chakravorty Committee Report 3.2, 3.3.). Receiving advance is only one of the five possible reasons for rendering bonded labour (see The Act, S. 2g). The definition of bonded labour where it is stated that a bonded labourer is one who has incurred bonded debt must be read along with the definition of the bonded labour system and clarifications given by the Supreme Court.

3. **The bonded labourer enters into an agreement with the creditor. This agreement has four constituent elements in it.** All these four elements need not be present together to prove the existence of bonded labour. It is enough for any one of the elements to be present to make the situation of any labour bonded labour (The Act, Sec.2g (i)-(iv)).

These 4 elements show us the different aspects of the BLS. They are as follows:

1) ***Re-payment of debt by way of rendering labour*** (The Act, Sec.2g (1))

- The labour may be rendered by the debtor himself or through any of his dependents.
- Bonded Labour may be for a definite period or for an indefinite period.
- The Act does not specify a minimum period for bondage. Even if a bonded labourer renders labour for less than a year, e.g., just for a season like the planting season or the harvesting season, he must be recognised as a bonded labourer. (Chakravorty Committee report 2.23 (iii)).
- Bonded labourer receives only nominal wages or no wages at all. **Nominal wages** mean wages which are below the minimum wages fixed by state or, in areas where there are no minimum wages fixed, wages lower than the prevailing wages (The Act, Sec.2 (i)).
- If a person renders service to another person for less than minimum wages it is clearly in violation of Art.23 of the Constitution (PUDR v. Union of India para 15).

If a labourer is forcibly asked to render service by a person then it will be assumed by the court to be a case of bonded labour involving the payment of "advance" or other economic

benefits, the existence of which is presumed. (Bandhua Mukti Morcha v. Union of India para 24)

If a labourer is compelled to work without wages or for nominal wages then he will be considered a bonded labourer. (Neerja Choudhury v. M.P 1984, Para 3)

Can a person be considered a bonded labourer simply because he receives less than minimum ages? A perusal of the Act and the Supreme Court Judgments gives one the impression that it is so. However, if we take into account the prevailing conditions in the villages against the backdrop of the Act and the Judgments, it will be more than clear that payment of less than minimum wage for labour cannot by itself constitute bonded labour. In the unorganised sector and in certain other occupations, it is rare to find minimum wages being paid. Among the persons who do not receive minimum wages, we can say there are two kinds. The first group generally receives consideration for its labour in the form of daily wages or wages according to contract. The labourers in this group receive wages at the end of a working day or after a week or after the completion of work as per the stipulations under contract. And generally the wages received here are below the statutory minimum wages. Such wages can be called 'prevailing' wages. The second group comprises of labourers who do not get the prevailing wages but only receive wages on a yearly or a monthly or in certain rare cases, even on a daily basis. But their wages, if calculated on a daily basis are much below not only the minimum wages but also the prevailing wages. Actually most of them do not receive wages, since what is their due is adjusted against the advance due to the creditor from the labourer. If labourers not receving minimum wages are considered bonded labourers, according to one interpretation of the Judgments of the Supreme Court, then those cases could be treated less severe forms of bonded labour; and the more severe forms, as explined above, are required to be tackled on a priority basis.

2) ***Till the person fully pays back the advance, the bonded labourer has no freedom to work elsewhere (The Act, Sec.2g(2))***

If this fact exists then it proves that such an agreement has the compulsion inherent in it. If non-payment of minimum or prevailing wages reveals the aspect of force, restriction of freedom to work as per the choice of a person indicates the element of bondage.

3) ***The labourer has no freedom to move anywhere in India till the debt is repaid (The Act, S.2g(3))***

If a bonded labourer belongs to the same village as the creditor, it is possible that he may go back to his house in the night after work. Also on certain important occasions/festivals it is likely that a labourer might visit his house. But this fact alone cannot nullify the existence of force, bondage and compulsion, which are otherwise present in the agreement (Chakravorty Committee Report).

4) ***All the product of labour of a bonded labourer must go to the creditor (master)***

The mere absence of the above aspect cannot be considered as the absence of Bonded Labour. (Chakravorty Committee Report 2.23 iv)

4. The reasons for Bonded Labour may be one or more among the following five:

1) **Advance** received and interest on such advance
2) **Customary or social obligation**
3) **Obligation by succession**
4) Any **economic consideration** received. (e.g., house, land)
   (Sec.8 of the Act restricts the eviction of a bonded labourer from the house given to him by the creditor against the bonded debt. Similarly there is also a suggestion by the Chakravorty Committee Report for a similar treatment with regard to the land given to a bonded labourer by the master.
5) **Birth in a particular caste or community**

5. **A surety for a bonded labourer is also a bonded labourer** (The Act, Sec. 2g).

6. **If labourers coming under the Contract Labour (Regulation & Abolition) Act, 1970) and Inter State Migrant Workmen Act, 1979** are made to render labour forcibly then they will also be considered BLs as per the Amendment introduced in 1985 by way of an Explanation Clause at the end of Sec.2g of the Act.

Handout for Session X

Two Role Plays on Faulty and Correct Identification of Bonded Labour (Script by Umesha, B. Nuralakuppe)

I

A pattern of the prevalent mode of identification by the officials

Scene 1

Office of the tahsildar (A meeting with the Revenue Inspectors and Village Accountants)

Tahsildar: I hereby instruct you all RIs and VAs to go to your respective village, identify the bonded labourers as early as possible. We have to a report to the District Magistrate soon. You instruct all the people concerned. It is a crime to keep bonded labour. If instances are found, cases will be booked against the masters and the bonded labourers.

VA: (aside on a mobile in low tone)

Namaskar Patel. I am the VA speaking. Tomorrow morning at 10 am RI and we all will come to your house.... It is about the survey of bonded labourers.... You please be at home.... Be a little careful.... Namaskar.....

Scene 2

Patel: Namaskar to RI sahib. It is many days that you came this side. Now all of a sudden.... Please come.... Lo Sidda.... Get a chair to the sahib....

RI: Yes it is many days that I met you.... I just thought of paying a visit to you.... The government is after us to conduct a survey of bonded labourers.... Somebody informed the authorities that there were bonded labourers in your house.... That's why we have come to speak to you....

Patel: See RI sahib, our government has no other work.... This Sidda in our house has been working for 10-15 years.... I look after him even better than my own son... Timely meals, coffee, snacks, two pairs of clothes a year.... All his needs are taken care of.... Is it not true Sidda?....

Sidda: True Sir....

VA: We all know that Patel.... We are bound to give a report to the government.

Patel: Lo... Sidda.... Go and pluck tender coconuts from that special tree....

[Sidda goes and fetches a few tender coconuts, chops them off and gives them to RI and VA to drink...]

Patel: Sidda.... Why do you wait... give them the tender coconuts.... Sir, drink the tender coconuts.... They are from the tree planted by Sidda's father.... It is now yielding as his son has grown up.... Please drink.... You should be satisfied.... If you are well, we too would be....

RI: No...no.... We are here because of you. We....

RI: (pointing to the VA): Please write a report that there are no bonded labourers in this house and get it signed by Sidda. Also take a signature from the Patel.... We take leave Patel.... My wife sent word that she needed some vegetables....

Patel: Why do you worry.... I shall see to that.... They will be sent to your house soon...

II

Model of an investigation according to the Law and the Guidelines:

Scene 1[RI, VA and leaders from the movement are ready to go for the survey]

RI: VA, have all come?

VA: Yes, all have come. Everything is ready.

RI: We cannot report like the last year that there are no bonded labourers. The present DM has instructed us thoroughly and has cautioned us of dire consequences. We have to keep in mind that we cannot go to the Patel's house. We are told to go straight to the dalit colony.... Come, let us go....

Scene 2

VA: Come, Ramanna.... Come....

[Villagers, leaders and officials gather in the centre of dalit colony]

RI: The government has instructed us to give a report about your village and your situation.... That's why we have all come.... How many of you have lands.... How much.... What work do you do for a living.... Come let's all discuss....

Villager 1: See sir... most us have no lands.... Some 7-8 of us have some bits of land.... The rest of the 40-50 of us have no lands at all.....

RI: Then without lands, what do you do for a living?....

Villager 2: What do we do?.... Go for daily wage labour.... If not in this village, somewhere else....

RI: Any other type of work apart from daily wage labour?....

Villager 3: Yes, work on farms....

RI: Anybody going for office work....?

Villager 4: Yes... There are three teachers.... two police.... two compunders.....

RI: What else....

[Villagers wisper among themselves....one as if hitting an idea...]

Villager 1: Madanna, that Sidda who is working for the Patel for the last 10-12 years.... Is he not rendering bonded service to him?

Villager 2: Similary, is there not Kempanna in the house of Ninge Gowda?....

RI: What are you talking among yourselves?....

Villager 1: Sir, Sidda is working as a bonded labourer for the Patel for the last 10 years or so.

RI: VA, Please record that case. Who is Sidda?..... Sidda please come forward.... Since how long have been a bonded labourer?....

Sidda: Since the last 8 years....

RI:What was the loan taken by you?....

Sidda: Rupees ten thousand Sir...

RI: How much of the loan has been repaid?...

Sidda: I do not know, Sir....

RI: Why did you take the laon?...

Sidda: To marry my daughter, sir....

RI: What work do you do?...

Sidda: All work in the farm... in the house....ploughing....cleaning... fetching firewood, watering the farm...all types of works, sir....

RI: When do you go for work?

Sidda: I begin by 5 am and finish only at about 8 or 9 pm. Sometimes I have to remain on the farm even at night... while watering....

RI: What about your food, clothes?....

Sidda: I am given food three times a day and two pairs of clothes a year....

RI: Are you given holidays?....

Sidda: I can take off when I am not well or certain festival days.... But then, I have to replace another in my place or a fine will be added to my advance....

RI: VA, This is a clear case of bonded labour....Take all the notes.... To confirm our finding, let me put a few more questions to him....

RI: See Sidda, to repay your loan, can you not go somewhere else to work?...

Sidda: How is that possible, sir....? I cannot go somewhere else to work till I have repaid my earlier loan....

RI: Alright, Sidda, there is peopn's job in the tahsildar's office. The salary is Rupees. 2000 per moth... Come I shall give you that work....

Sidda: What do you mean, sir?.... Will my master, who gave me that loan, remain quiet?....We cannot leave him till the loan is repaid.... If at all I go away, he will drag me back from whichever place I have gone....

RI: See VA... There is no doubt this is a case of bonded labour....Sidda.... we report to the government to give you a rehabilitation grant....Please sign here.... Get your two photographs.... VA, get countersigns from the villagers....

RI: We have identified seven bonded labourers in your village.... In case you happen to know of any case bonded labour in your neighbouring villages, please let us know immediately.... We will come and do the reporting....It is an offence to keep bonded labour.....

We shall take leave of you... Namaskar....

Handout for Session XI

METHODOLOGY FOR IDENTIFICATION OF BONDED LABOUR

[This paper was prepared in 1976 by Shri S.R. Sankaran, when he was a deputy commissioner in Telangana region of Andhra Pradesh and who later was a Chief Secretary, Government of Tripura. As the content indicates, it describes in detail an operational methodology for identification of bonded labour which has been effectively used in Telangana region. As the local characteristics of bonded labour differ from area to area, this methodology cannot be a general one. Once its essence is appreciated, however, it can be suitably modified for application in any particular region. The Government of Karnataka has directed it officials to follow the Methodology in its Circular RDP 15 RBL 99(P) dated 14-10-1999.

Introduction

After reaching the village, the investigating team of officers or any officer or other person entrusted with the work should proceed to the *Harijanwada* and not to the so called main village. The agricultural labourers in the village, most of whom will be Scheduled Castes, Scheduled Tribes or Backward classes may be assembled together in the *Harijanwada*. They may be asked to say as to how many of them are doing *Roju Cooli* (daily labour) and how many of them are doing *Jeetham* (bonded labour). For the purposes of convenience, they can be asked to fall into two groups accordingly or raise their hands.

Roju Cooli or Daily Labour

Roju cooli means daily labour. A few questions may then be put to the *Roju Cooli* group:

(i) Do you actually go and work with anybody who calls you for work?

(ii) In the last week or ten days, where did you work, with whom, on particular days?

(iii) What is the rate of wages for men/women?

The answers will normally be that they go and work with whoever 'calls them'. In the course of a week or ten days, they would have worked with two, three or more number of different persons or places. The rates of wages, will of course, be low and distinct for men and women. The rates will be daily rates (no monthly or annual) normally around Rs.2.50 to 3.00 for men and Rs.2.00 for women. These rates may vary from place to place and from busy season to lean season. We should thus first satisfy ourselves about the nature of Roju Cooli.

Jeetham

Those who are not *Roju Cooli* are prima facie *Jeetham* or bonded labour. The term '*Jeetham*' (or *Jeethagadu* is a term of contempt and should not be used) in Telangana districts invariably connotes bonded labour. In the areas adjoining Rayalaseema, the term *grasam* is also used. The following series of questions must now be put to the *Jeetham* group.

Questions to *Jeetham*

Q.No.1: Whom are you working with and how long have you been working ?

If he has been working for more than one year with the same landlord (say, he has been working for five years with the same landlord), it would raise a presumption that he has been for some reason or the other, bound to work with the same person.

Q.No. 2: What is the amount of loan you had taken, when did you take the loan, for what purpose?

The usual replies in Telangana area will be that he had borrowed about Rs. 400 or Rs.500 for the marriage (*lagnam*) of his son which took place a few years ago and for the sake of repaying the loan, the particular person has been doing '*Jeetham*', or the son has been put into *Jeetham.*

Q.No.3: What is the rate of interest on the loan?

In most places, there is conventionally no interest for the first Rs. 100 of any loan. The remaining loan amount carries interest at the rate of about 2.5 per cent per month which is often the minimum formal rate. Effective interest rate will be much higher.

Q.No. 4: What is your monthly wage and what are the perquisites?

The wage for a person doing *Jeetham* is monthly or annual wage and not daily wage. There are usually three kinds of payments made to them.

a) Monthly wage (known as *Nela Jeetham*): If paid in cash this varies from Rs. 5 to Rs. 10 (or even lower) for young children who graze the cattle of the landlord to anything upto Rs. 40 or so for adults. This is payable monthly. Alternatively, in terms of grain, it could be 10 kgs. for children, 20 kgs. for young persons and about 40 kgs. for adults. Very often, this is in terms of paddy (and not rice or jowar, etc.). The measures referred to will be *thumedu* or seer which should not be taken as equivalent to regular legal measures; it will be much less. Crude measuring containers are used. Another point to be noticed is that this amount of monthly wage is never actually paid in fact, and is adjusted straightaway towards the loan. In the result, the labour will not get anything in cash at all; but would be forced to take fresh advance.

b) *Pettubadi* or *Bicham*: In addition to the monthly wage, the labourer is given *Pettubadi* (can be freely translated as capital) or *Bicham* (this can be translated as grant-in-aid). This is either an annual payment or six monthly or periodical payment. This may vary from Rs.40 to Rs. 100 in cash or may be expressed in terms of commodity, specially paddy or jowar.

c) Food: Practice regarding providing food to the bonded labour varies. For instance, in districts such as Hyderabad (Chevella taluk), the bonded labourers are not given any food at all. In district such as Medak, one roti is given and the size of this is clearly laid down. In certain other districts, it is not unusual that food is given even two times a day.

d) Other items: It is conventional to give a bonded labour one *Gongali* (woolen blanket which keeps both hot and cool); a pair of chappals; some tobacco and some clothes for festivals. In certain places, instead of blanket, only some cash grant as low as Re 1 is given. In certain other places, some tobacco or blanket is given. Generally a pair of chappals is given.

e) Petty advance (*nagadu*): The bonded labourers also take advances from the landlord for his various necessities. This is known as *nagadu* and is added to the loan. There is no obligation on the part of the landlord to give this help, but as a general gesture, the landlord does give advances from time to time and adds them on to the loan.

f) Penalty for absence (*naga*): If on any day the bonded labour is absent for valid reasons or otherwise, there is no leave. The

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S R Shankaran's Methodology for Identification of Bonded Labour

labourer has to pay a penalty (*naga*). The penalty is normally double the normal wage. In other words, if he is absent for one day, he has to work for two days to make up his absence.

Q. No. 5: You have worked for a few years with the landlord (which most of them would have done). Has the loan been reduced to some extent or whether at least the interest has been paid up?

The answer to this will be that the loan has not been reduced at all and, on the other hand, the amount of the loan has gone up. Being illiterate, most of them will not know the full details of the loan. They would say that the papers are always with the landlords only. If they are questioned further as to how they came to know that the loan has gone up or is coming down, the answer often will be that they have been told so or they have checked up with the school master (*pantulu gadu*).

Q. No. 6: How long will you have to work with the same landlord? Can you not go and work with someone else?

The answer will be very clear – that they have to work with the particular landlord, until the loan is repaid.

Q.No. 7: When do you think that the loan will get repaid (in their opinion)?

They cannot easily answer this because they cannot visualize anything clearly nor can they do mental accounting. After some prodding they would come out with the answer that loan can never be repaid by them, or a rhetorical answer, "When will it be repaid?"

This will complete the picture. They have to work with the landlord until the loan is repaid: and the loan can never be repaid. The loan is not deemed to be repaid even if the bonded labour dies; it is passed on to his heirs.Thus, generation after generation, they continue to be in debt bondage. Such families can be identified by asking questions as to where the father was working; where the son is working; what was the debt the father had and the son is having.

Further leading questions

Certain typical questions can finally be put to them to find out what their own understanding and awareness of this situation is.

(i) The bonded labour can be told that we will give him a job straightaway in Hyderabad as a peon in our office (*jawan*) and this

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will give him a salary of Rs. 400 every month. Will he immediately come along to Hyderabad?

He will first hesitate and then say that he cannot. It could again be stressed before him that every month he can earn Rs. 400 (equal to ten times of what he earns in the village) and in one month alone he can repay his loan to his landlord. He will still say that he cannot come, because he is in debt, and until the loan is repaid, he will not be allowed to go.

(ii) It can then be put to him that as the present *Jeetham* is only Rs. 40 per month (for example), will he not go and work with another landlord who will pay, say Rs. 100 per month? Just for eliciting a proper response, he can be told that we have met such a landlord in an adjoining village. Is it not more beneficial to him?

He will accept that it is more beneficial, but he will say he cannot go to work with another landlord because he is indebted to his present master. Alternatively, he will answer that if he has to leave his present landlord, the prospective landlord has to give an equal amount as advance so that he can pay up his loan, and go to the other landlord.

(iii) It can next be put to him that he can run away to Nagarjunasagar, Pochampad, or such projects where there is a heavy demand for labour and where he can easily get a daily wage of as much as Rs.10.

His answer will be that he cannot go because he has a loan to repay and again, even if he runs away, the landlord will send his *jawans* to bring him back and also beat him.

Conclusion

The conclusion will thus be, so long as there exists a loan, he has no freedom to move in the labour market. He has to work until the loan is repaid. He is bonded. The loan can never be repaid by him. He is thus bonded for life: after his life, his son too will become bonded.

There are clear written documents in Telangana districts where it is set out that for the sake of a loan, a particular person binds himself to work for a number of years, at a particular monthly wage, etc. These are documentary evidences of pledging of a human being for the sake of a loan and they should be seized from the landlords. The documents are normally written or at least attested by village officers i.e. Mali Patel and Police Patel and the information can be elicited from them, though they themselves are the largest group of keepers of bonded labour.

Notes:

1. This will clearly indicate the perception of the bonded labourer about his own position. He will be very clear in his mind that he is obliged to work with the landlord 'until the loan is fully paid back' "*Appu Thirevaraku Cheyeli*" (Telegu). This sentence is clearly understood and uttered by all of them, as a covenant which he cannot break, except at the cost of severe penalty that the landlord will be entitled to inflict on him.
2. The answer is in the nature of exclamation or rhetoric. More or less equivalent to 'God knows when it will ever be repaid'. It is just impossible to visualize when it will get repaid at all. Picture a person shrugging his shoulders and saying, "*Yeppudu Tirutundi, Yeppudu*" denoting not a definite but an indefinite time dimension.
3. The emphasis is on the involuntary nature i.e., he "will not be allowed to go" which is vividly expressed by the Telugu word "*ponnivvaru.*"
4. This is a typical answer which should be clearly understood. Even in the process of moving from the present landlord to another, they get bound straightaway to the new landlord by taking a loan from him to pay up the dues of the previous landlord, without doing which they will not be allowed to go. In Telegu it is expressively put across as "*Akkada Tekchi Ikkada Itchi Padapotanu*", This is a refrain which is repeated in almost all the villages and the language is similar if not identical in every village.

General Note

The following excerpts from the Union Labour Ministry's papers will be relevant to understanding the significance of the bonded labour system.

"A poor peasant or an agricultural worker takes a small loan, his dues accumulate very fast under exorbitantly high rate of interest, soon he finds it impossible to extinguish his debt he is dispossessed of his property but still he continues in debts. He then begins to work for his creditor under absurdly low wages and hopes to repay the debts by the fruits of his labours; but the cruel logic of usury defeats him; his children and grand-children also begin to work for nominal wages to liquidate the debt. Generations after generations virtually become slaves to the creditors. The entire future of the family becomes mortgaged to a small loan taken in the remote past; the debt becomes the destiny."

"Bonded labourer ceases to be a free economic agent; he is reduced to an appendage of feudal property. The debt dehumanizes him; he lives like a subman; indeed he lives like a thing."

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Salient Points on the Methodology for the Identification of Bonded Labourers.

1. When a team visits a village for identification, the following points must be kept in mind:

1) The team should not go to the so-called main village but should proceed directly to the places where the dalits stay. Most of the bonded labourers are dalits or adivasis and so the usual practice of the Government officers of first meeting the powerful and prominent people of the village must be avoided.

2) On no account, bonded labourers must be interrogated in the presence of their masters (creditors). Otherwise, the bonded labourers may not reveal any facts regarding bondage owing to the fear of the creditors. To avoid this possibility during the enquiry, bonded labourers must be inquired separately.

3) While conducting the enquiry, it is advisable for the officers to do it in a group consisting of the prominent dalit leaders of the village, parents of bonded labourers apart from bonded labourers themselves.

4) There is no need for any written evidence for the statements made by a bonded labourer during the enquiry. (Sec.2g)

5) To identify bonded labour, it is not important to go only by the word used to designate bonded labour. The Act has given in the Explanation Clause Sec.2 b), various terms used for bonded labour in different parts of the country. In Karnataka itself, there are different terms used in the different regions to designate bonded labour. What is important is to find out if there is force and bondage in working relationships as defined in Sec.2 of the Act and the Judgments of the Supreme Court. If there is force and bondage in any working relationship, then it is a case of bonded labour.

2. The way of conducting enquiry:

1) It is not advisable to ask in the beginning of the enquiry itself whether a particular person is a bonded labourer or not.
2) It is better to get some initial information of the village about the daily wage earners, contract labourers, self employed people, people in government or in private service, people cultivating their own land or people working for wages along with cultivating their own land etc.

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Salient Points in the Methodology for Identification of Bonded Labour

3) After collecting this information, enquiry must be made to know whether there are people involved in any other occupations. It is possible to get a hint as to the existence of bonded labour if any person in the village is found to be engaged in work in any other way than the aforementioned occupations. The following question may have to be asked in order to confirm this doubt.

4) Those questions are: Where is he working? Since how many years is he there? What is the reason for his working there? What is the debt incurred by him? Is there any interest on the debt? If so, what is the rate of interest he is paying? Is he given separate wages? Is he getting food and clothing? For how many hours is he working per day? Does he get weekly/monthly holidays? How much of this debt is still outstanding? For how many more years should he work still? The answers to these questions would reveal whether one is a bonded labourer or not.

3. Once it is found out that a particular person is indeed a bonded labourer, the following questions may be asked to confirm the finding:

1) I will get you a salary of Rs. 2000/- per month in the city for the job of an attendant. Will you come with me?

2) A landlord from the neighboring village has agreed to pay you double the amount you receive here as wages, if you work under him. Is it not better for you go there?

3) In the neighboring village, there is a lot of demand for labourers and for your kind of work. You will be given Rs.100/- per day. Would you like to work there?

For all these questions he may reply in the following manner:

How can I work there without repaying the debt, Sir?

Even if I escape from the master's place he will send his men to trace me and then I may be beaten up.

The above type of answers will confirm his status as a bonded labourer. If he is a bonded labourer, he is entitled for protection under the Bonded Labour System Abolition Act 1976 and the benefits thereof.

Handout for Session XII B

Identification and Release of Bonded Labour

(From the Action Plan on Identification, Release and Rehabilitation of Bonded Labourers and Prosecution of Offenders - GOK : Sections on Identification and Release of Bonded Labourers)

1. Identification of Bonded Labour

1.1 It is the duty of the **DM or the officer specified by him** to identify bonded labour and of the **Vigilance Committee (VC)** constituted under S. 13 of the Act "to keep an eye on the number of offences of which cognizance has been taken under this Act" and "to make a survey as to whether there is any offence of which cognizance ought to be taken under this Act" (S. 14). In Karnataka, **Grama Panchayats (GPs)** are also mandated to report cases of bonded labour to the Deputy Commissioner (DC) concerned under S. 58A of the Karnataka Panchayat Raj Act, 1993.

1.2 Since the duty of identification of bonded labour is that of Executive Magistrates and VCs by reason of the Bonded Labour System (Abolition) Act, 1976 (Ss. 10-14) and that of GPs by reason of the Karnataka Panchayat Raj Act, 1993, S. 58A, the DCs/DMs and the Assistant Commissioners (ACs) / Sub-Divisional Magistrates (SDMs) must **periodically, say once in three years, make a survey** of bonded labour in the area of their jurisdiction; the GP secretaries in Karnataka must report cases of bonded labour to DCs and ACs every year. The DCs and the ACs must be assisted in the surveys by their respective VCs which are to be reconstituted once in two years (The Bonded Labour System (Abolition) Rules, 1976, S. 4). The composition and functions of the VCs are given in Ss. 13-14 of the Act. Care must be taken to see that a few right thinking and progressive minded individuals together with leaders from Scheduled Castes, Scheduled Tribes, trade unions and NGOs are included in the VCs. It is advisable that the VCs meet at least once in two months.

1.3 The DM must create **a District Level Forum** under his Chairmanship for ensuring **frequent consultations with NGOs** in regard to Bonded Labour and Child Labour issues and to promote networking among the NGOs. The NGOs would be entrusted with the task of participating in the design and monitoring the schemes relating to identification and rehabilitation of released Bonded Labour and Child

Labour families, with appropriate funding to discharge this task. The NGOs working on bonded labour could promote a forum to ensure their credibility and see that government involves them in the programmes of identification and rehabilitation of bonded labour.

1.4 The DMs are required to do personally a certain percentage of **identification checks** in regard to bonded labour and the ACs are to lead actively identification efforts in their sub-divisions so that the Law is applied impartially and without the prospect of its succumbing to extraneous considerations and pressures.

1.5 To ensure **institutional memory** regarding bonded labour and child labour issues, the DMs are required to make a detailed reference to the action taken and required to be taken in the District in regard to these issues in the charge note to be left for the successor at the time of transfer.

1.6 For proper identification of bonded labour, **sensitisation of bonded labour issues**, i.e., the provisions in the Constitution, in the Bonded Labour System (Abolition) Act, 1976, the concept and understanding of bonded labour, the proper process of identification of bonded labour must be undertaken periodically **to all the officials in the departments of Revenue, Labour, Panchayat Raj, Rural Development and any other department, speciafically entrusted to monitor bonded labour issue in a state, (like Adi Dravidar Welfare in T.N. and Rural Development and Panchayat Raj in Karnataka), to the elected representatives in the panchayats and to all the other officials associated with identification of bonded labour as also the police and the judicial officers. Sensitisation of credit agencies** in connection with rehabilitation of bonded labourers is also of great importance.

1.7 Sensitisation programmes in areas of bonded labour must precede the identification process to promote the awareness of bonded labourers and to build up their confidence. **Sensitisation programmes must also be held for the released bonded labourers**. Sensitisation of identified and released Bonded Labour and Child Labour families in regard to their rights and duties under the Law, and skills to work their programmes in an organised, self- reliant, group-based, cooperative mode should precede and continue to accompany all rehabilitation measures.

1.8 **Sensitisation programmes to bonded labourers and officials are a must because the problems encountered so far while identifying bonded labour are because of the following reasons:** 1) The bonded labourers who are mostly SCs and STs do not come forward due to fear of reprisals and loss of employment. 2) The masters create an aggressive environment to maintain or restore status quo. 3) Lack of alternate employment opportunities. 4) The VCs are inactive, local officials are insensitive and lack awareness about bonded labour concepts and issues and hardly any voluntary agency identifies bonded labour and prevents fraudulent identification.

1.9 All the above mentioned sensitisation programmes could better be entrusted to credible NGOs and also Legal Aid Committees.

1.10 Identification of bonded labour must follow the provisions in the Act and the guidelines elaborated by S. R. Sankaran. The main elements of those guidelines are: 1) The investigation of bonded labour must take place in the dalit or the adivasi and not the caste section of the village. 2) Bonded labourers must not be interrogated in front of their masters. 3) The investigating officers must ascertain the conditions of labour and through a process of questioning come to the conclusion if certain conditions of labour portray features of forced labour. They are not to ask straight away if one is a bonded labourer. What is important to note in conducting the investigation is not just accepting what the informants, whether they be masters or bonded labourers, say or claim, or, whether they use a particular terminology or not, but ascertaining if certain objective conditions of labour come within the definition of bonded labour as given in the Act and come to a conclusion on personal satisfaction if a person is bonded or not.

1.11 **Another guideline** could be added. The investigation must be conducted in the open, collectively and in the presence of leaders or people from the dalit or adivasi community in villages instead of conducting it individually or secretively. This will help in cross verifying or cross checking the information furnished and eliminating false claims easily.

1.12 **A few more clarifications on bonded labour and related issues** given below require to be kept in mind while identifying bonded labour.

1) **Forced labour does not necessarily mean use of physical force.** Though an element of physical compulsion is always

present in bonded labour, **actual physical coercion need not be present in every case of bonded labour to make it forced labour.** The force of social and economic circumstances that compel a person to agree to work for nominal wages is forced labour for purposes of law (See 'Peoples Union for Democratic Rights and others v. Union of India and others, para nos. 14-15,' AIR 1982 SC 1473).

2) **The Act does not specify the age for bonded labour** (S. 2g). **Bonded labourers could be of any age**. Child bonded labourers should be identified as bonded labourers and action according to Child Labour Act must also be taken regarding bonded children.

3) **The Act also does not specify the length of the period for bonded labour** (S. 2g). Bonded labour could be of any duration. It need not extend to even a year. Hence it could be life long and inter generational; it could spread over many years or just a few; it could last only a year or just for a season. What is to be ascertained is whether there is forced labour or not. The length of period of bonded service, according to the Act, is not an issue to determine the existence of bonded labour (see Report of the Central Committee (A. K. Chakravorty) on Bonded Labour, 1994, no. 2.23 iii).

4) **The Act further does not stipulate any documentary evidence** for the contract of bonded labour (see S. 2g). Further, it is the duty of the master to disprove any claim of a bonded debt (see S.15).

5) **Identification of bonded labour is not a one time affair but a continuous one.** Bonded labour must be identified as and when it is reported to the officials concerned. A periodic survey of bonded labour, say **once in three years**, must be carried out by the DCs and the Panchayats.

6) **The officials identifying bonded labour must give due cognizance to newspaper reports on bonded labour and complaints made by voluntary organisations.** In identifying bonded labour, NGOs with record of honest and competent service for SCs, STs, **agricultural labourers and other unorganised labourers** must be involved. Similarly any **organisation of already released bonded labourers, student volunteers, especially from SC and ST**

communities and other landless agricultural families, must also be involved, due to their familiarity with conditions of bonded labour.

7) **Identification of bonded labour should be a part of any household survey done by the Revenue Department or the Directorate of Economics and Statistics or Tribal Research Bureau or RD & PR** for identifying target groups for allotment of house sites and houses and all these along the lines of the surveys done by the National Sample Survey Organisation.

1.13 A Time Frame for Identification:

In some states, agreements for bondage are made sometime in March-April or just before the commencement of the main agricultural season or the rainy season. Hence, it is advisable that the survey to be done regularly once in three years be carried out from the month of April or some other convenient month for any state. The DCs and the ACs must carry out the surveys with the support of the VCs. It is better to conduct the surveys in collaboration with credible NGOs or the surveys could be entrusted to them entirely.

2 Release of Bonded Labour:

2.1 When a person is confirmed as a bonded labourer through the process of identification, the District or the Sub-divisional Magistrate, as the case may be, must pass **an Executive Order to release him and issue a Release Certificate** to the bonded labourer. Copies of the release certificates must be sent to the secretaries of the GPs in the case Karnataka.

2.2 **Identification and release** of bonded labour **should be simultaneous activities** in order to avoid delay in rehabilitation causing a bonded labourer to relapse into bondage .

The release of bonded labour should take place within two weeks of the identification of bonded labour and the rehabilitation process should be initiated soon thereafter. The release certificate would entitle a released bonded labour to access rehabilitation grants under the Centrally Sponsored Scheme (CSS) for bonded labourers and all other schemes of poverty alleviation, economic betterment and social and educational advancement.

2.3 **A subsistence grant of Rs. 1000/-** (or the amount stipulated from time to time) from the total rehabilitation grant of Rs. 20,000 must be provided to each of the released bonded labourers at the time of the release.

[2.4 **For GOK:** A monthly allowance of Rs.300/- per month for a period of upto two years from the time of release must be given to the released Bonded Labourer under the "Bonded Labourers Rehabilitation Assistance Scheme"(GO. RDP: 2004 dated- 21-01-2006)]

2.5 **Other effects under the Act** at the time of or soon after the release are as follows:

1) All agreements creating bondage are rendered void (Ss. 4-5).
2) Liability to repay bonded debt stands extinguished (S. 6).
3) The creditor cannot accept any payment against the extinguished debt (S.9).
4) Any property of bonded labourer is freed from mortgage (S. 7).
5) The bonded labourer is not to be evicted from the homestead given to him (S.8).
6) If within 30 days of release, any property of bonded labourer is not restored to him, the person doing so can be fined Rs. one thousand and, from this amount, the bonded labourer should be given Rs. five for each day of not restoring (S.19).

2.6 An important clarification on the concept of release is in order here. From all the points enumerated above, it is clear that release of a bonded labourer does not mean release from the source of his employment but mainly from the conditions of labour that reveal non-freedom and bondage, and force and exploitation. Having released a bonded labourer, the authorities should see to it that he is not disrupted from his employment, if he so wishes, and continues to work but under free and fair conditions and in accordance with law.

Handout for Session XIII A: Action Plan in Brief

(From the Action Plan on Identification, Release and Rehabilitation of Bonded Labourers and Prosecution of Offenders - GOK 2008)

The Various Steps of the Action Plan in Brief are as follows:

[1. Periodic surveys of bonded labour to be conducted once in three years by DMs and SDMs together with their VCs. DMs and SDMs to investigate cases of bonbded labour whenever they are brought to their notice. The surveys could be entrusted to credible NGOs. Secretaries of GPs must report cases of bonded labour to DMs and SDMs whenever they come to light. Identification of bonded labour to be also part of any household survey done by Revenue Department, Directorate of Economics and Statistics, Research Bureau or RD & PR.

2 As part of the process of identification and carrying out the surveys, sensitisation and awareness programmes must regularly be conducted for those involved in identifying and carrying out the surveys on the concept of bonded labour and proper method of identification as well for the bonded labourers and the vulnerable sections of the society as their entitlements.

3. The identified bonded laboures must be released with a Release Certificate by DMs or SDMs within 15 days of the identifaction. Copies of the same must be sent to the secretaries of GPs and EOs of TPs.

4. Rs. 1000/- must be given to the bonded labourer at the time of his release. Rs. 300/- per month for two years must be sanctioned from the "Bonded Labourers Assistance Scheme." Other consumption credit needs must also be ascertained and provided by the financial institutions.

5. Prosecution in 'more severe cases of bondage' must be initiated against the keepers of bonded labour. In all other cases, mere sending of a notice indicating the punishments that could be meted out to the offenders should suffice.]

6. The secretary of a GP, when he receives copies of the Release Certificates of bonded labourers from the DM / SDM concerned must call together the released bonded labourers, government officials, representatives of financial institutions, members of NGOs, leaders of ex bonded labour associations dalit and tribal leaders to work out meaningful rehabilitation packages with the amount of Rs. 19,000 from CSS and other grants or subsidised loans of nearly Rs. 30,000 from various schemes under SGSY and other schemes; sanctioning of house sites and houses; providing work under NREGA or work for food under SGRY or NFWP or "Kuligagi Kalu Yojane"; granting lands under

"Namma Bhumi Namma Thota" and "Land Purchase Scheme" of SC & ST Development Corporation; linking with "Yashaswini" and "Janshree Vima Yojane"; providing for adult literacy; mainstreaming of bonded children under NCLP and SCLP; and working out skill and awareness trainings. The process of working out and releasing a rehabilitation package must be over within two months of the release of bonded labourers.

7. These plans must be sent to the CEO of the ZP for sanction and release of funds. The CEO must call together the District Screening Committee along with the heads of various other government departments, financial inistitutions and NGOs to ensure pooling of resources from as many quartrers as possible.

8. The secretaries of GPs could send a copy of the re4habilitation plans to the Executive Oficer (EO) of the taluk Panchayat to keep a consolidated programme of action at th3e taluk level and, wherever possible, to pool together resources for rehabilitation at the taluk panchayat level.

9. The State level High Powered Committee must meet once in six motnths to ensure that various government departments and financial institutions give priority to the needs of the released bonded labourers.

10. Before the sanction of the rehabilitation package by the ZP, the released bonded labourers must be formed into SHGs and unions or associations either by themselves or in association with landless agricultural workers in their villages with the help of credible NGOs.

11. Psychological rehabilitation of the released bonded labourers must also be ensured by carrying out in collaboration with NGOs awareness and training programmes by using some of the 5% of the money meant to be used for information education and communication (IEC) purposes in every scheme of government. All officials concerned must take responsibility for it.

12. Separate **registers** must be maintained in GPs, sub divisions, and districts for identified, released and rehabilitated bonded labourers and continuously **monitor the impact and progress of rehabilitation programmes** granted to the released bonded labourers. Six monthly meetings must be held to ascertain the progress on rehabilitation.

13. E**valuation studies of the rehabilitated bonded labourers may be conducted** as also of the processes of identification and release to offer guidelines for further action.

14. While working out action plans for the rehabilitation of the released bonded labourers, plans, schemes and actions must also be incorporated for the effective prevention of bonded labour system.

Handout for Session XIII B

A Summary of the Recommendations in the Report of the Central Committee on Bonded labour

(submitted to the Government of India on 11-08-1994 by the Chairman of the Committee, A.K. Chakravorty):

The Committee has observed that non-payment of minimum wages cannot be straightaway considered bonded labour unless conditions of bondage according to the Act are satisfied. It has also clarified that the Act does not specify a minimum period for bonded labour and that even if a bonded labourer does not forfeit freedom of movement or the right to appropriate the fruits of his labour, he / she would still be a bonded labourer.

A Summary of the Recommendations in Chapter. III (Nos 3.3 to 3.5 in the Summary below are from Chapter II of the Report).

1. Though debtor-creditor relationship is one of the major elements for deciding the existence of bonded labour, the element of forced labour may be given high priority to decide the cases of bonded labour. The word "force" must be construed to include not only physical force, but also force arising from compulsions of economic circumstances which makes a person in want to render labour not in accordance with normal legal norms (See, the Report 3.2 & 3.8-3.11).

2. The definition of Bonded Labour and Bonded Labour System could be made more flexible by incorporating the element of 'Forced Labour' in the relevant clauses and provisions of Sections 2,6, Sub –sections (1) and (6), 7,8,9,16 and 18 of the Bonded Labour System (Abolition) Act, 1976 (3.3).

3. The existing provisions of the definition of Bonded Labour System in the Act could be used in a more flexible manner by adopting the following administrative criteria:(3.4)

   3.1 Even if bonded debt is extinguished, the bonded labourer concerned has to be automatically identified, released and rehabilitated (3.4).

   3.2 Even if an arrangement of a labourer with his employer may appear on paper to be a regular one camouflaging the

element of force yet it is bonded labour system if a labourer is forced to render labour on account of caste, or any social system for no remuneration or less than reasonable remuneration (3.4).

3.3 Even if a bonded labourer is now free of bondage but was a bonded labourer at the time of his application, he must be identified, released and rehabilitated [2.23(ii)].

3.4 Even if a bonded labourer renders labour for less than a year, he must be recognised as a bonded labourer. The Act does not specify a minimum period for bondage [2.3(iii)].

3.5 If a bonded labourer has incurred bonded debt and is forced to render labour till the repayment of this debt, even if he does not forfeit his right of movement, the right of employment and the right of appropriating the fruits of his labour, the burden of proof that it is not a bonded debt remains with the master, according to Section 15 of the Act [2.23(iv)].

4. The explanation clause under Section 2 of the Act as amended by Act of 1985 must be made broad-based so as to consider the case of child labour under Child Labour (Prohibition and Regulation) Act, 1986, under the various provision of the Bonded Labour System (Abolition) Act 1986 (3.5).

5. The District Magistrate should appropriately delegate power and authority to his subordinate officials to identify, release and rehabilitate bonded labour (3.12).

6. District Magistrate should ensure formation of Vigilance Committees at District, Sub-division and Taluk levels (3.13).

7. A task force should be formed at block level to continuously conduct surveys on bonded labour and identify the genuine cases of bonded labour (3.15).

8. There should be a State Level High Powered Co-ordination Committee to oversee and review the performance under its various Development Programmes from the point of view of identification, release and rehabilitation of bonded labourers (3.20).

9. All programmes of bonded labour should be taken up in an integrated manner involving Vigilance Committees, Social Justice Committees of Panchayats in all the tiers in a district and Voluntary Agencies (3.14,19,20,22, 23,24,27,31).

10.Intensive efforts should be made by the Government authorities and other Voluntary Agencies for identification of the areas of concentration of bonded labour (3.17).

11.Household surveys of bonded labour in sensitive areas must be done by the State Government within a time-bound programme (3.16).

12.Identification of Bonded Labour should be done during survey for identification of target groups for allotment of house sites and for various economic development programmes during micro-level village plan preparation under the Integrated Rural development Programme (IRDP) and other Rural Development Programmes and in the areas of stone-quarries, brick-kilns, diamond cutting industry, carpet weaving industry where element of Bonded Labour and child labour might be more perceptible (3.17).

13.The identification of bonded labour should be a continuous process, till such time as the entire bonded labour system is totally eradicated (3.24).

14.It is desirable to conduct a countrywide census of bonded labourers once in five years (3.25).

15.Proper incentives may be given to informants, like Voluntary Agencies, Social Action Groups and Social Workers working for the welfare of SCs, of the existence of Bonded Labour in a particular area (3.27).

16.Central and State Governments should help conducting training programmes at the levels of State, District, Taluk and Village for explaining the provisions of the Act, for attaining proper perception and clarity about definition of Bonded Labour and also about methodology for identification and abolition of Bonded Labour (3.7).

17.Publicity camps must be launched in the sensitive areas of Bonded labour to bring about better awareness among all concerned regarding problems of identification, release and rehabilitation of Bonded Labour (3.18).

18.District, Taluk and Village level administration must be sensitized for proper implementation of the Act. Officials who are deeply interested in the eradication of Bonded Labour must be posted to the sensitive areas of Bonded Labour and given full

encouragement and support by the State.

19.Rural Labour Camps should be held in sensitive areas of Bonded Labour. Individuals with proper organizational capability and proper training skills and outlook must be inducted to conduct the camps (3.23).

20.Regular Training Programmes and Workshops should be organized at the Central and State level for undertaking training of functionaries involved in the survey, enumeration, identification and rehabilitation of Bonded Labour. Newspapers, Radio and Electronic Media must be widely used for publicizing the abolition of Bonded Labour (3.26).

21.Any action on identification of bonded labourers should be concurrently followed up with actions against the keepers of bonded labour (3.29).

22.All cases of identification of bonded labour in an area should be concurrently taken up for rehabilitation of those bonded labourers (3.31).

23.The question of Bonded labour must be kept on the agenda of monthly/periodical meetings of the Executive Magistrates and Police Officers in the district and of District, Taluk and Village Panchayat administration (3.28).

24.The District Vigilance Committee should take necessary steps in consultation with the Judiciary to see that the concerned Magistrate empowered to try offences committed under the Act, disposes of such cases expeditiously (3.30).

25.Every District Vigilance Committee should maintain the following registers in respect of the freed bonded labourers within their jurisdiction :

a)register containing names and addresses of the freed bonded labourers,

b)register containing statistics relating to vocation, occupation and income of every freed bonded labourers,

c) register containing details of benefits received by freed bonded labour (3.14, 3.33).

26.The Government of India's guidelines and existing instructions for undertaking fresh surveys for identification of Bonded Labour should be strictly followed by all concerned. During such identification priority attention must first go to the localities of

poorer sections of the people in the villages and information must be collected in an intelligent and imaginative manner (3.32).

27. The Government should consider setting up Bonded Labour Rehabilitation Area Sub-Plan in the selected and identified areas of a district on the lines of the Tribal Area Sub-Plan Development Programmes and for which separate Development Fund Allocation must be made (3.34).

28. The identification, coordination and rehabilitation of the Bonded Labour should be declared as a PRIORITY PROGRAMME in the country and the entire programme should be funded as a CENTRALLY SPONSORED SCHEME (3.35).

29. There should be well defined structural/institutional arrangements for identification and eradication of Bonded labour right from the Centre to the State to the District on the lines of IRDP etc., programme of Government of India where each functionary and her/his role and responsibility should be specifically defined and monitored (3.36).

30. There should be stricter implementation of the provisions of the Minimum Wages Act, the Inter-State Migrant Labour Act, the Child Labour (Prohibition and Regulation) Act & the Contract Labour Regulation Act (3.37).

Note: Except for Recommendations Nos. 3.16, 3.17 and 3.21 in Ch. III of the Report, which have been accepted with minor modifications, all other recommendations have been accepted by the Government of Karnataka for necessary action.

(Summarised from the Report by Kiran Kamal Prasad)

Handout for Session XIII B

AK Chakravorty Committee Recommendations on Bonded Labour

GOVERNMENT OF KARNATAKA

No. RDP 31 RBL 94

Karnataka Government Secretariat,
M.S. Buildings,
Bangalore,
Date: 08.12.1994

CIRCULAR

Sub:- Bonded Labour System Report of the Central Committee to draw up a workable definition of BONDED LABOURERS and the modalities of procedures for identification of Bonded Labourers – Reg.

*****

Adverting to the above, a copy of the Summary of Recommendations of the Committee on definition of Bonded Labourers and modalities or procedures for identification of Bonded Labourers is enclosed herewith which has been received from the Ministry of Labour, Government of India. The recommendations of the Committee of Sri A.K. Chakravorty, Additional Chief Secretary, Government of Gujarat, Gandhinagar who was Chairman-cum-Convenor of the said Committee, were discussed in New Delhi, The State Government agrees to the recommendations of the Chakravorty's Committee except the following:-

1. In para 3.16 and 3.17 a Survey has been recommended. The Govermment of Karnataka have suggested that the survey may be done once in three years so that there is sufficient time for rehabilitation.

2. At para 3.21, the State Government have also suggested that the Deputy Commissioners who are interested in the eradication of bonded labourer should be posted in areas where this problem is in existence. This may not be possible since the Deputy Commissioner is incharge of several activities of the State Government including bonded labour. Similarly it has also been suggested to Government of India to associate students from SC/ST in the survey of identification. The State Government has considered that it is not advisable to associate students in such programmes which may lead to complications and social tension.

Except the above paras, the State of Karnataka have agreed with all other recommendations made by the Committee in its report. This is for necessary compliance.

[N.A. MRGARET]
I/c Asst. Development Commissioner and
E/oUnder Secretary to Govt.,
Rural Development & Pan. Raj Dept.

To,

All the Deputy Commissioners in Karnataka State.

GOVERNMENT OF KARNATAKA

CIRCULAR

.....Bonded Labour System is both a perverse and pernicious system which is anathema to civilized human conscience, negation of inalienable human rights, antithesis of dignity, decency, equality and freedom and negation of all that is just, fair and equitable at the work place. Partly sanctified by caste system and an inegalitarian feudal social order it has been nurtured and buttressed by man's voluptuous greed, tyranny, acquisitive instincts and the beastly instinct inherent in every man to dominate over another, exploit him to the care and to thrive/prosper at the latter's cost.....

.....Imparted in a learner – centred mode, training would remove doubts, uncertainties and mindsets and place issues in a proper and holistic perspective besides imparting a rational, secular and scientific temper. It would enable the participants i.e. trainers and trainees alike to think, reflect and critically analyse the causes and consequences of certain events and come to certain conclusions which will be just, fair and equitable....

.....The Manual on Training for elimination of bonded labour system would undoubtedly spur many other grass root level activist organizations to action and to make use of the manual in training and retraining of functionaries of administration at various levels as also released bonded labourers.

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